

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1732.01</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Steve Starbuck</b>
<b>DATE OF COMPLAINT:</b>	<b>April 16, 2001</b>
<b>DATE OF REPORT:</b>	<b>May 24, 2001</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>no</b>
<b>DATE OF CLOSURE:</b>	<b>September 25, 2001</b>

**COMPLAINT ISSUES:**

Whether the Alexandria Community School Corporation and the Anderson Community Special Education Cooperative violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to allow the student to participate in the general education kindergarten classroom during the 2000-2001 school year; and
- b. failing to implement the behavioral intervention plan as written, including utilizing time out when no misbehavior has occurred.

511 IAC 7-26-2(d) with regard to the school's alleged failure to provide professional and paraprofessional staff serving students with autism spectrum disorder specialized inservice training in this area.

511 IAC 7-29-1(d)(1) with regard to the school's alleged suspension of a student with a disability from the student's current placement for more than ten consecutive instructional days in a single period of suspension for violation of school rules for which a nondisabled student could be suspended.

511 IAC 7-29-1(l) with regard to the school's alleged failure to utilize suspension procedures which comply with Indiana statutes and this article.

During the course of the investigation, an additional issue was identified, which is:

511 IAC 7-17-8 and 511 IAC 7-27-4(a)(8) with regard to the school's alleged failure to utilize the case conference committee (CCC) to develop the student's behavioral intervention plan and to incorporate the plan into the student's IEP.

The complaint investigation report was originally due on May 16, 2001; however, because the local director was unable to meet the initial deadline established for submitting a response to the Division, and because additional information was needed from the school to complete the report, an extension was approved by the director of special education extending the deadline until May 25, 2001.

**FINDINGS OF FACT:**

1. The student is six years old, attends kindergarten in a special education classroom, and has been determined eligible for special education due to autism, a severe mental disability, and a

- communication disorder.
2. The Case Conference Summary dated September 20, 2000, reflects that the parents wanted the student integrated into the general education kindergarten classroom. The amended Case Conference Summary form dated September 26, 2000, was specifically written to address the student's participation in the general education classroom. The form indicates the student will be integrated into the general education kindergarten classroom after the first nine weeks of school. The student will attend the kindergarten classroom with the speech pathologist for five to ten minutes two times per week. Integration into the kindergarten classroom will begin around the week of October 9, 2000, and time in the classroom will be increased each nine weeks as tolerated by the student. Due to the student's aggressive behavior, the director reports the school was not able to integrate the student into the general education classroom in October as specified in the IEP. The director provided a summary of incidents which reflect that the student exhibited aggressive behavior (i.e., biting, kicking, and scratching) which resulted in injury to staff and students on six different occasions in the month of October. The director reports that for safety reasons staff determined the student should not be integrated into the general education classroom until a CCC meeting was convened. On November 3, 2000, a CCC meeting was convened to discuss the student's aggressive behavior and to review the student's IEP. At this time, it was determined that the student would attend school for half of an instructional day instead of a full instructional day. The Case Conference Summary dated November 3<sup>rd</sup> does not reflect that the CCC discussed the student's participation in the general education kindergarten classroom or that any modification was made to the amended Case Conference Summary written on September 26<sup>th</sup> concerning the student's integration into the general education kindergarten classroom. The parents state that it was their understanding the student should have been integrated into the general education kindergarten classroom since the week of October 9, 2000. The student did not start attending the general education kindergarten classroom until March 21, 2001.
  3. Case Conference Summary notes dated November 3, 2000, reflect that the school planned to contract with a behavior specialist to complete a Functional Behavioral Assessment and to write a Behavioral Intervention Plan (BIP) for the student. On January 2, 2001, a BIP was developed for the student. A signature page is attached to the BIP, and it is signed by the parents, the student's teacher, and classroom assistant. No dates are included on the signature page. According to the director, and based on documentation provided to the Division, the school has been implementing the student's BIP since the first of January 2001. The director acknowledges that the BIP was never approved by a CCC and has not been incorporated into the student's IEP.
  4. The following school personnel work with the student on a regular basis: principal, severe mental disabilities teacher, learning disabilities teacher, teacher of record, physical therapist, occupational therapist, nurse, and two instructional assistants. The director provided a list for each individual mentioned reflecting the training they had received. All individuals have received specialized inservice training in the area of autism spectrum disorder. The training for one individual was provided by school personnel, all other individuals have received training from staff at the Indiana Resource Center for Autism.
  5. The director provided the student's school attendance record for the 2000-2001 school year. The document reflects that the student has only been suspended from school for four instructional days during the school year. The student was suspended from school on April 12, 13, 16, and 17, 2001, due to biting and scratching school personnel. The school's Student Rights and Responsibilities Handbook 2000-2001 reflects that a student can be suspended from school for exhibiting such behavior.
  6. In regard to the student's suspension, the school principal states she took the following action upon being notified of the student's aggressive behavior:
    - a. conducted an investigation;
    - b. discussed the incident with the student's father;

- c. issued a Notice of Student's Suspension form;
- d. provided a copy of the suspension form to the parents; and
- e. convened a meeting to discuss the issues that led to the suspension.

The parent confirms that these actions were executed by the principal. A copy of the Notice of Student's Suspension form dated April 12, 2001, was provided to the Division. The suspension notice indicates the student's misconduct and the action taken by the principal.

#### **CONCLUSIONS:**

1. Finding of Fact #2 indicates the school failed to allow the student to participate in the general education kindergarten classroom as specified in the Case Conference Summary dated September 26, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates the student's BIP was never developed and approved by a CCC and was not incorporated into the student's IEP. Therefore, violations of 511 IAC 7-17-8 and 511 IAC 7-27-4(a)(8) are found. Since the BIP was not developed and approved by a CCC and was not incorporated into the student's IEP, a violation of 511 IAC 7-27-7(a) cannot be determined.
3. Finding of Fact #4 indicates the school provided specialized inservice training in the area of autism spectrum disorder to all professional and paraprofessional staff working with the student. Therefore, no violation of 511 IAC 7-26-2(d) is found.
4. Finding of Fact #5 reflects that the school did not suspend the student from school for more than ten consecutive instructional days. Therefore, no violation of 511 IAC 7-29-1(d)(1) is found.
5. Finding of Fact #6 indicates the school utilized suspension procedures that comply with Indiana statutes and Article 7. Therefore, no violation of 511 IAC 7-29-1(l) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

The Alexandria Community School Corporation and the Anderson Community Special Education Cooperative shall:

1. Convene a CCC meeting no later than September 14, 2001, to determine the student's need for compensatory educational services and to review the appropriateness of the student's BIP. If the BIP is developed and approved by the CCC, it shall be incorporated into the student's IEP. The Case Conference Summary shall reflect that both issues have been thoroughly addressed by the CCC. Submit the Case Conference Summary and any revised IEP to the Division no later than September 21, 2001.
2. Inservice all appropriate school personnel as to the requirements specified in 511 IAC 7-17-8, 511 IAC 7-27-4(a)(8), and 511 IAC 7-27-7(a). Submit documentation to the Division no later than September 21, 2001, that all inservice training has been completed. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
3. Submit to the Division no later than June 22, 2001, a letter of assurance which ensures all IEPs developed for the student will be implemented as written. The letter of assurance shall be signed by the director.

DATE REPORT COMPLETED: May 24, 2001